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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,089	02/12/2001	James B. Carroll JR.	P/12-816	9721

2352 7590 07/19/2002

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

ST CYR, DANIEL

ART UNIT PAPER NUMBER

2876

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,089

Applicant(s)

CARROLL ET AL.

Examiner

Daniel St.Cyr

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 2/5/02 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

2. Claims 1 and 7 are objected to because of the following informalities: line 2, "its" should be changed to --the pigment--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-6, drawn to an apparatus and method claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asaba et al, US Patent no. 6,249,751, in view of Abu-Shumays et al, US Patent No. 4,181,853.

Art Unit: 2876

Asaba et al disclose a method of measuring gonio-spectral reflectance factor comprising: a goniospectrophotometer; a the computer is provided with, at least, a function of generating random numbers, a function of controlling a measuring device of the goniospectrophotometer, an arithmetic function, means for storing the angle file, the measuring angle specification file and data to be used as a criterion obtained by measuring a coating plate; a plane 1 represents a plane including a normal line of the coating plate and an incident light; a plane 3 represents a plane of coating plate of specimen; a light from a light source 4 via a point of incidence is received by a receiving light instrument in a plane 2 specified by the tilt angle represented by a viewing angle 6 and an angle of rotation from the plane 3 (see col. 4, line 21 +).

Asaba et al fail to disclose or fairly suggest a flow cell for providing a sample of the pigment.

Abu-Shumays et al disclose a liquid chromatography system with packed flow cell for improved fluorescence detection comprising: a flow cell 12 is provided for the sample material 46.

In view of Abu-Shumays et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a flow cell into the system Asaba et al storing the pigment sample so that a more condense and concentrated sample is provided for optimal component resolution to facilitate color detection. Such modification would enhance the color detection process by providing more effective color matching. Therefore, it would have been an obvious extension as taught by Asaba et al.

Conclusion

Art Unit: 2876

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Orchard et al, US Patent No. 4,572,672, disclose a surface coating characterization method and apparatus. Marcus et al, US Patent No. 5,231,472, disclose a color matching and characterization of surface coatings. Yamaguchi et al, US Patent No. 5,942,754, disclose a method of and apparatus for determining hydrogen peroxide. Hammond et al, US Patent No. 6,195,443, disclose a system using online liquid characterization apparatus.

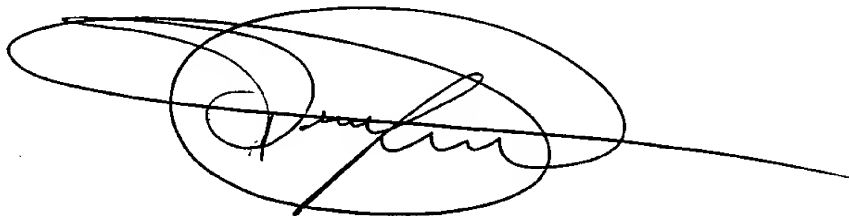
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr
Examiner
Art Unit 2876

DS
July 12, 2002

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a large, loopy oval shape. A long horizontal line extends from the right side of the signature.